

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JUAN A. GONZALEZ, :
Plaintiff :
v. : Case No. 3:08-cv-291-KRG-KAP
MICHAEL ZENK, WARDEN, MOSHANNON :
VALLEY CORRECTIONAL CENTER, :
et al., :
Defendants :
:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge, after screening the complaint pursuant to 28 U.S.C. § 1915A, filed a Report and Recommendation on December 30, 2008, docket no. 3, recommending that the plaintiff's complaint be dismissed.

The plaintiff was notified that, pursuant to 28 U.S.C. § 636(b)(1), he had ten days to file written objections to the Report and Recommendation. Plaintiff filed a motion to proceed in forma pauperis containing some additional information about his detention, docket no. 4, and after the time to file objections had passed sent a letter contending that plaintiff was in the eighth day of a food strike and needed medical attention, docket no. 5. No legal objections to the Report and Recommendation have been advanced, but even considering the plaintiff's most recent filings as objections, the following order is entered:

AND NOW, this 27th day of January, 2009, it is
ORDERED that the complaint is dismissed for failure to
state a claim. If plaintiff wishes to file a complaint concerning
medical care at the prison he may do so by filing a new complaint
with a motion to proceed in forma pauperis. The Report and
Recommendation is adopted as the opinion of the Court. The motion
for leave to proceed in forma pauperis in this matter, docket no.
4, is denied. The Clerk shall mark this matter closed.

BY THE COURT:



Kim R. Gibson

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by U.S. Mail to:

Juan A. Gonzalez, Reg. No. 77743-179
Moshannon Valley Correctional Center
P.O. Box 2000
Philipsburg, PA 16866-0798